

BOARD OF ADJUSTMENT MEETING MINUTES

June 12, 2013

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Chairperson Drake called the regular Board of Adjustment meeting of June 12, 2013, to order at 5:30 p.m. in the Council Chambers of the West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines, Iowa.

Roll Call: Blaser, Christiansen, Drake.....Present
Cunningham, Stewart.....Absent

Item 1a – Approval of Minutes of May 29, 2013

Chairperson Drake asked for any questions, comments or modifications to the May 29, 2013, meeting minutes.

Board member Blaser commented that due to the fact that he and Chairperson Drake were not present at the May 29th meeting, the Board would be unable to approve the minutes. Therefore, the minutes from the Board of Adjustment meeting of May 29, 2013, should be deferred to the June 26, 2013 for approval.

Item 2 – Old Business

There were no Old Business items presented.

Item 3 – Public Hearings

Item 3a – Variance Request – Medical Arts Building Sign Variance – Steven Lombardi – 1300 37th Street – Request for a 60 ft. variance of the required 500 foot frontage for an interstate sign – VAR-2013-003

Chairperson Drake opened the public hearing and asked the Recording Secretary to state when the public hearing notice was published. The Recording Secretary indicated that the notice was published on May 10, 2013, in the Des Moines Register.

Chairperson Drake then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Board member Blaser, seconded by Board member Christiansen, the Board of Adjustment accepts and makes a part of the record all testimony and all other documents received at this public hearing.

Vote: Blaser, Christiansen, Drake.....Yes
Cunningham, Stewart.....Absent
Motion carried.

Stephen Lombardi began his presentation by noting that his first name is spelled incorrectly and that it should be spelled with a “ph” and not a “v”. He continued that he resides at 1601 South 43rd Street in West Des Moines and that his office is located at 1300 37th Street, Suite 6, also in West Des Moines. He is an attorney and real estate broker as well as a commercial and residential property owner in West Des Moines. He is the owner of the Medical Arts Building situated along I-235, west of West Towers and north of Colony Park near Valley High School. The property does not have any frontage along a City street. The building is approximately 21,000 sq. ft., which he purchased in 1986. The primary tenant for the duration of his ownership has been Unity Choice (formerly Iowa Health Systems). The building also houses other medical tenants and is listed as office space but they are more commonly known as being a medical office building. It

has been challenging to reposition their building in the market and he feels that having a monument sign on the interstate side would assist with that. The zoning ordinance requires 500 feet of frontage for a sign and they have approximately 440 feet and are seeking a 60 foot variance request to install a monument sign on their property. An existing sewer runs along the property as well as utility easements and there is also a setback requirement from the fence that they will not interfere with when installing the monument sign. He complimented Kevin Wilde and other City staff members as being very helpful and exceptional to work with during the process.

Board member Christiansen asked the applicant if he had opportunity to review the staff report and if he agreed with staff's recommendations and conditions. Mr. Lombardi replied affirmatively.

Board member Blaser asked for clarification of the location of his building and where the sign would be located on the property.

Mr. Lombardi responded that they are looking for maximum exposure for their building but that an existing grove of trees obstructs the view of their building going westbound. They would like to obtain exposure from both directions and will most likely place the monument sign towards the north and east.

Board member Blaser raised a question regarding the conditions of approval as noted in the staff report.

Christopher Shires, Development Planning and Inspection Manager, replied that it is a general statement in complying with the City Code when obtaining a sign permit.

Board member Blaser indicated that the staff report made mention of a digital sign as part of the monument sign request and clarified with the applicant if he would be requesting that as well and should a condition be added to the other conditions of approval that if he decides to include the digital sign that he needs to comply with the City Code for that type of sign.

Mr. Lombardi explained that "yes" they would like to have the digital sign as well and they are aware that they need to comply with City Code requirements regarding that type of sign. He is unsure as to what the base of the sign should look like but did assure the Board that it would be aesthetically pleasing to the eye.

Chairperson Drake noted that the property does not have any street frontage and asked the applicant if the property was subject to a cross easement agreement with West Towers as well as the other properties in the area and if the proposed sign would be located on their property. Mr. Lombardi replied in the affirmative to both questions.

Chairperson Drake asked for any other questions or comments from the audience and upon hearing none, declared the public hearing item closed.

Kevin Wilde, Sign & Zoning Administrator, explained that staff felt that this situation is unique due to their lack of a street frontage for the property. A monument sign is located off the private drive coming from the south but they do not have any other identity from public streets other than building signage that can be seen. Mr. Wilde provided photos of the building and dimensions of the sign's location. He continued that the building signage has limited visibility due to the slope of the property and that it is located on the north wall. The sewer runs along the property in an area typically where an interstate sign could be located. City Code requires a minimum of a 200 ft. setback from the side yard and if the applicant were to comply with Code requirements the sign would be located in the middle of the easement. The setback from the right-of-way is 20 feet and without knowing the exact location of the easements, the applicant's request for 22 feet from the east property line and eight (8) feet from the right-of-way line to locate the sign seemed reasonable. It also gives

the applicant the flexibility to re-orient the sign if they chose to. From staff's perspective, they felt that justification was warranted in supporting the variance request due to the uniqueness of the site and the lack of street frontage.

Board member Christiansen asked a question regarding the history of the City allowing time and temperature reader board signs.

Mr. Wilde explained that City Code does allow time and temperature signs but not changeable reader boards. Discussion was held with the City Council a few years ago regarding allowing gas price signs but not allowing digital text, but court cases have indicated that the content of a sign cannot be dictated by the City. However, courts have differentiated time and temperature signs. The City has the latitude to allow time and temperature signs without jeopardizing the rest of the Sign Code. The only stipulation is that they cannot be more than one-third of the allowed signage.

Moved by Board member Blaser, seconded by, Board member Christiansen, the Board of Adjustment approve the applicant's request for a 60 foot variance of the required 500 foot interstate frontage necessary for the placement of an interstate sign on the property and due to the sewer line and easement, also approval of a side yard variance to allow the sign to be placed 22 feet from the east lot line and eight (8) feet from the interstate right-of-way, subject to the following:

1. If the applicant decides to have the digital time and temperature portion of the sign, it will need to comply with City Code requirements.

Vote: Blaser, Christiansen, Drake Yes
 Cunningham, Stewart Absent
 Motion carried.

Item 4 – New Business

There were no New Business items reported.

Item 5a – Staff Reports

The Recording Secretary indicated that at this time there are no items scheduled for the June 26th Board meeting and should the meeting be cancelled, she will inform everyone.

Item 6 – Adjournment

Chairperson Drake asked for a motion to adjourn the meeting.

Motioned by Board member Blaser, seconded by Board member Christiansen, the Board of Adjustment meeting adjourns.

Vote: Blaser, Christiansen, Drake Yes
 Cunningham, Stewart Absent
 Motion carried.

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The meeting adjourned at 5:52 p.m.

Jennifer Drake, Chairperson
Board of Adjustment

Michelle Riesenberg, Recording Secretary